



FISCAL MEMORANDUM

SB 1378 - HB 1416

January 20, 2022

SUMMARY OF BILL AS AMENDED (010856): Changes the age of the victim for a Class A felony offense of trafficking for a commercial sex act from under 15 years of age to between the ages of 13 and 17 years of age. Creates a Class A felony offense of aggravated trafficking for a commercial sex act and requires individuals convicted to serve 100 percent of any sentence imposed, undiminished by any sentence credits. Requires lifelong community supervision for offense committed on or after July 1, 2022. Requires such sentence to be no less than a sentence imposed for a Range II offender.

FISCAL IMPACT OF BILL AS AMENDED:

Increase State Expenditures – \$16,200 Incarceration

Assumptions for the bill as amended:

Trafficking a Person for a Commercial Sex Act

- Pursuant to Tenn. Code Ann. § 39-13-309(c), trafficking for commercial sex act is a Class B felony offense and enhanced to a Class A felony offense if the victim is under the age of 15.
- The proposed legislation enhances trafficking for commercial sex to a Class A felony offense if the victim is between the ages of 13 and 17 years of age.
- Based on information provided by the Department of Correction (DOC), there has been an average of 2.3 admissions in each of the past ten years for the Class B felony offense of trafficking for commercial sex act, with an estimated average time served of 5.68 years, after adjusting for pre-trial jail credits.
- Public Chapter 563 (2021) required a defendant to serve 100 percent of the sentence imposed for certain offenses, including the offense of trafficking for a commercial sex act, committed on or after July 1, 2021.
- It can be reasonably assumed one admission of a Class B felony offense of trafficking for commercial sex act every five years will be enhanced to a Class A felony offense under this legislation.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.74 percent per year for each of the past 10 years (from 2010 to 2020).
- The weighted average operational costs per day are estimated to be \$51.36 for inmates housed at state facilities and \$48.77 for inmates housed at local facilities.

- The estimated increase in incarceration costs are estimated to be the following over the next ten-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ -	FY22-23
\$ -	FY23-24
\$ -	FY24-25
\$ -	FY25-26
\$ -	FY26-27
\$ -	FY27-28
\$ 4,300	FY28-29
\$ 8,700	FY29-30
\$ 12,400	FY30-31
\$ 16,200	FY31-32

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring cost increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in incarceration costs will be \$16,200.

Aggravated Trafficking for a Commercial Sex Act

- The proposed legislation defines aggravated trafficking for a commercial sex act as the commission of an act that constitutes trafficking for commercial sex act, pursuant to Tenn. Code Ann. § 39-13-309, if the victim of the criminal offense is under 13 years of age.
- Based on information provided by DOC, there has been an average of 0.1 admissions in each of the past ten years for the Class A felony offense of trafficking for commercial sex act of a child less than 15 or on the grounds of or within 1,000 feet of outlined locations. The average length of sentence for a Class A felony is 13.79 years.
- It is reasonably assumed the proposed legislation will result in a sentence enhancement for one Class A felony admission every ten years.
- Pursuant to Tenn. Code Ann. § 40-35-112(b)(1), a Range II sentence for a Class A felony offense is not less than 25 years nor more than 40 years.
- The proposed legislation requires a defendant to serve 100 percent of the sentence imposed for the offense of aggravated trafficking for a commercial sex act.
- The proposed legislation will result in each admission serving an estimated additional $(25 - 13.79) 11.21$ years $(25 - 13.79)$.
- Pursuant to Tenn. Code Ann. § 9-4-210, recurring cost increases are to be estimated on the highest of the next ten fiscal years; however, such impact exceeds the window of this analysis.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.

- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal memo are available upon request.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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